UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,434	03/24/2004	Noel Coyle	PA1555 CIP1	4253

28390 7590 05/11/2007

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

EXAMINER
SCHELL, LAURA C

ART UNIT	PAPER NUMBER
3767	

NOTIFICATION DATE	DELIVERY MODE
05/11/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.vasciplegal@medtronic.com

ED

Office Action Summary	Application No.	Applicant(s)	
	10/807,434	COYLE ET AL.	
	Examiner	Art Unit	
	Laura C. Schell	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1,6-18* is/are allowed.

6)☒ Claim(s) *2-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (US 2003/0105427). Lee discloses a catheter (Fig. 8, 26) comprising: a proximal shaft (proximal shaft is portion defined by bracket 31) defining a guidewire lumen (21) from a proximal end (proximal end of the proximal shaft is the left end of 31) to a distal end thereof (distal end is the right end of 31; guidewire lumen 21 clearly extends between these two ends) and an inflation lumen (20), wherein said inflation lumen is arcuate shaped (Fig. 10 shows lumen 20 being arcuate shaped) from said proximal end to said distal end of the said proximal shaft (paragraph [0034] discloses that the arcuate/d-shaped inflation lumen 20 is arcuate/d-shaped in region (25). Region 25 is best seen in Fig. 1 wherein Fig. 1 also discloses that region 25 extends the same length as region (31), the proximal shaft. Therefore the inflation lumen (20) is arcuate shaped from the proximal end to the distal end of the proximal shaft); a first reinforcing member (22 is a reinforcing member as [0029] discloses that it can be a metal hypotube) and a second

reinforcing member (36) disposed within said inflation lumen (20) of the proximal shaft (as shown in Fig. 1, inflation lumen (20) extends the whole length of (26) to the balloon, and therefore the whole interior of 26 is really the inflation lumen, as Fig. 1 further discloses that guide tube (27) passes through the balloon and hence the inflation lumen, therefore anything within 26 is therefore also located within the inflation lumen 20; therefore both reinforcing members (22) and (36) are located within the inflation lumen); and a distal shaft (distal shaft begins at the right edge of 31, where the proximal shaft ends) having a guidewire shaft (guidewire shaft 27) for extending said proximal shaft guidewire lumen to a distal tip of the catheter (Fig. 1 discloses that 27 extends to the distal tip of the catheter) such that the catheter has a full-length guidewire lumen (paragraph [0027] discloses that the distal tip of guidewire shaft (27) extends along the entire length of the catheter to the distal tip of the catheter), wherein said distal shaft has a greater flexibility than said proximal shaft (as can be seen in Fig. 8, section 31 of the catheter has both reinforcing members (22 and 36), however in the distal section, neither reinforcing member is present, therefore the distal section has a decreased stiffness/flexibility).

In reference to claim 3, Lee discloses a transition section (the transition section in Fig. 8 begins at line 10 and ends to the left of 27, where 27 become parallel with 26 again) having a proximal end (at line 10) and a distal end (to the left of 27 where 27 becomes parallel with 26 once again), said proximal end communicating with said proximal shaft (as defined above) and said distal end communicating with said distal shaft (as defined above).

In reference to claim 4, Lee discloses that the first and second reinforcing members (22 and 36) have a stiffness that is reduced from a proximal end to a distal end of said first and second reinforcing members extending into said transition section (as can be seen in Fig. 8 and Fig. 1, both 22 and 36 taper at their distal ends, and both their distal ends extend into the transition section. Therefore their stiffness decreases from the proximal end to the distal end).

In reference to claim 5, Lee discloses that an outer surface of one of said first and second reinforcing members forms a portion of a surface of the guidewire lumen (in area 31, 22 is fused to 27 through 32, and therefore the fusion of the members at this point allows 22 to form part of the surface of the guidewire lumen).

Allowable Subject Matter

Claims 1 and 6-18 are allowed. The following is a statement of reasons for the indication of allowable subject matter: the subject matter in the independent claims that could not be found was shape and thickness of the reinforcing members in combination with their placement such that they form parts of other lumens.

Response to Arguments

Applicant's arguments with respect to claims 2-5 have been considered but are moot in view of the new ground(s) of rejection.

In reference to Applicant's arguments that Lee does not disclose a catheter with a full-length guidewire lumen, it is the examiner's position that the catheter (26) in Fig. 8,

has a full-length guidewire lumen (27) and further support and arguments for this position are presented above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LCS

LCS

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons